

1999 DRAFTING REQUEST

Assembly Joint Resolution

Received: 12/2/98

Received By: **champra**

Wanted: **Soon**

Identical to LRB:

For: **Michael Lehman (608) 267-2367**

By/Representing: **Himself**

This file may be shown to any legislator: **NO**

Drafter: **champra**

May Contact:

Alt. Drafters: **dykmapj**

Subject: **Constitutional Amendments**

Extra Copies:

Topic:

Distribution of gambling proceeds

Instructions:

See Attached.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	champra 12/2/98	ygeller 12/5/98		_____			
/1			martykr 12/7/98	_____	lrb_docadmin 12/7/98		
/2	champra 12/8/98	gilfokm 12/8/98	ismith 12/8/98	_____	lrb_docadmin 12/8/98	lrb_docadmin 12/8/98	

FE Sent For:

<END>

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/?	champra 12/2/98	jgeller 12/5/98		_____			
/1		<i>12-12/8</i> <i>Kmg</i>	martykr 12/7/98 <i>IS</i> <i>12/8</i>	_____	lrh_docadmin 12/7/98		

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& JLG**

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1/?	champra	1/12/5 JLG	2/12/7 km	2/12/7 km			

FE Sent For:

<END>



Michael (Mickey)
Lehman

State Representative
58th Assembly District

Committee Chair: Ways and Means

December 2, 1998

Richard Champagne
100 North Hamilton, 5th Floor
Madison, WI 53703

Dear Richard:

I would like to request a draft of wording of a question for ratification of an amendment to the Wisconsin Constitution regarding the Lottery Credit as a result of 1997 Enrolled Joint Resolution 19.

Specifically, I request that you draft the language of Question 1 on page 3 of your November 23rd, 1998 memo with one change. On line 2 of Question 1, please change "most moneys" to "net proceeds."

Thank you for your assistance in this matter. Please do not hesitate to contact me with any questions that you might have.

Respectfully,

MICHAEL "Mickey" LEHMAN
State Representative
58th Assembly District

ML:amn

Office: P.O. Box 8952, State Capitol, Madison, WI 53708-8952 • (608) 267-2367 • Toll-Free Legislative Hotline: (800) 362-9472
Home: 1317 Honeysuckle Road, Hartford, WI 53027 • (414) 673-7979

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TOWNS: Addison, Cedarburg (Wards 1,2,3,6, and 7), Hartford, Jackson, Polk (Wards 1, 2, 3, 4, 5 and 8), Rubicon, Trenton and West Bend

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State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
P. O. BOX 2037
MADISON, WI 53701-2037

STEPHEN R. MILLER
CHIEF

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-8522

REFERENCE SECTION: (608) 266-0341
REFERENCE FAX: (608) 266-5648

November 23, 1998

MEMORANDUM

To: Representative Michael Lehman

From: Richard A. Champagne, Legislative Attorney, (608) 266-9930

Subject: Wording of Question For Ratification of Amendments to the Wisconsin Constitution Proposed by 1997 Enrolled Joint Resolution 19

Per our conversation on November 19, 1998, I have prepared a question that may be used for the ratification of the amendments to the Wisconsin Constitution proposed by 1997 Enrolled Joint Resolution 19. The question reads as follows:

QUESTION 1: "*Distribution of gambling proceeds.* Shall section 24 (3), (5) and (6)

(a) of article IV of the constitution be amended to require that most moneys received by the state that are attributable to bingo games and pari-mutuel on-track betting and the net proceeds of the state lottery be used for property tax relief for residents of this state as provided by law?"

You will note that I have made two changes in the wording of the question from the version we discussed on November 19. First, I deleted the word "generally" and substituted the word "most" for the word "all" to make clear that not all of the bingo game and pari-mutuel wagering revenues will be required to be used for property tax relief for residents of this state. Second, I added the phrase "as provided by law" at the end of the sentence. In this way, it is clear that the legislature will be determining the manner in which these gambling moneys will be distributed to residents of this state for property tax relief.

This version of the question accurately conveys the essential purpose of the amendment to the Wisconsin Constitution. This purpose is to require that certain moneys, derived from legal gambling in this state, be used for property tax relief for residents of this state as provided by law. In our discussion on November 19, however, you specifically raised two issues. The first is whether the question should include specific mention of the fact that the distribution of these gambling moneys will not be subject to the uniformity requirement of section 1 of article VIII of the Wisconsin

Constitution. The second is whether the question should include specific mention of the fact that the distribution of the gambling moneys may not vary based on the income or age of the person provided property tax relief.

The legal requirements for submitting a proper question for a proposed constitutional amendment to the electorate are found in section 1 of article XII of the Wisconsin Constitution and in s. 13.175, Stats. Section 1 of article XII provides that "it shall be the duty of the legislature to submit such proposed amendment or amendments to the people in such manner and at such time as the legislature shall prescribe...; provided, that if more than one amendment be submitted, they shall be submitted in such manner that the people may vote for or against such amendments separately". Sec. 13.175, Stats., requires "a complete statement of the referendum question upon which the voters shall be requested to vote". Essentially, a proper question must advise the public of the changes to the constitution in the amendment so that the electorate can make a rational choice in voting on the issue and must fully advise them as to the changes to the constitution in the amendment. *Milwaukee Alliance v. Elections Board*, 106 Wis. 2d 593, 602 (1982).

While this legal standard is easy to state, it is considerably more difficult to apply. The reason is that there may be legitimate differences in opinion over what level of detail is necessary to fully advise the electorate as to the changes in the constitution in the amendment. For example, with respect to the first issue you raised concerning the uniformity requirement, I am uncertain as to whether it is *absolutely* necessary to refer to the change to the uniformity clause requirement in the question. After all, the question specifically states that the property tax relief is for "residents of this state". As such, the question seems to advise the electorate that the distribution of the gambling moneys for property tax relief will *not* be uniform; instead, the distribution of these moneys will only be to "residents of this state".

But, obviously, the question does not explicitly state the fact that the legislature is given the authority in the amendment to target the property tax relief to owners of specific kinds of property and not to owners of other kinds of property. Perhaps the addition of the words "as provided by law" will put the electorate on notice that the legislature will determine the manner of distribution and the types of property that will be subject to relief. Ultimately, the resolution of this issue, I believe, must come from a judgment call on the part of the legislature. If you believe it is necessary, for the purpose of fully advising the voters, to specifically refer to the fact that the distribution of these moneys will not be uniform, then there should be some mention in the question of this issue. In this regard, you may wish to consider using the following question:

QUESTION 1: "Distribution of gambling proceeds. Shall section 24 (3), (5) and (6)

(a) of article IV of the constitution be amended to require that most moneys received by the state that are attributable to bingo games and pari-mutuel on-track betting and the net proceeds of the state lottery be used for property tax relief for residents of this state, with the specific kinds of property subject to property tax relief to be determined by law?"

This very same issue arises with respect to whether it is *absolutely* necessary to refer to the fact that the distribution of the gambling moneys may not vary based on the income or age of the person

provided property tax relief. On the one hand, someone could argue that it is not necessary to mention this issue in the question because the income and age restriction is simply a condition on the distribution of these moneys and does not substantially alter the key purpose of the amendment — the requirement that these gambling moneys be used for property tax relief for residents of this state as provided by law. On the other hand, a different person could argue that this income and age restriction will substantially alter the manner of distribution of the gambling moneys in such a way that the electorate will not be fully advised as to the contents of the amendment unless the issue is mentioned. Again, the resolution of this issue requires a judgment call on the part of the legislature. If you wish the question to include the fact that the distribution of these moneys will not be uniform and may not vary based on the income or age of the person provided the property tax relief, you may wish to consider using the following question:

QUESTION 1: *“Distribution of gambling proceeds.* Shall section 24 (3), (5) and (6)

(a) of article IV of the constitution be amended to require that most moneys received by the state that are attributable to bingo games and pari-mutuel on-track betting and the net proceeds of the state lottery be used for property tax relief for residents of this state, with the specific kinds of property subject to property tax relief to be determined by law, but subject to the condition that the distribution not vary based on the income or age of the person provided property tax relief?”

I hope this information is useful. If I may be of any further assistance, please do not hesitate to call me.



Michael (Mickey)
Lehman

State Representative
58th Assembly District

Committee Chair: Ways and Means

Memorandum

To: Richard Champagne, LRB

From: Rep. Mickey Lehman

Date: December 2nd, 1998

Re: Wording for ratification of Constitutional Amendment

Per our conversation with Senator Decker this morning, I would like to formalize the request to alter the wording for the Question on ratification for the Constitutional Amendment pertaining to the distribution of the Lottery Credit. Please modify the wording of Question 1 of your November 23rd memo as follows:

Line 2. change "most moneys" to "net proceeds"

Line 4, strike "with the specific kinds of property subject to property tax relief to be determined by law," and *replace* with: "as defined by law."

If you have any questions, please do not hesitate to contact me.

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10-Note
State of Wisconsin
1999 - 2000 LEGISLATURE

SOON

LRB-0308/2
RAC&PJD:kmg:ch

LRB-1093/1
RAC&PJD: jlg
+ kmg

1999 SENATE JOINT RESOLUTION

ASSEMBLY

1 ~~REPEAL~~ To amend section 24 (3), (5) and (6) (a) of article IV of the constitution; relating to:
2 the distribution of the net proceeds of the state lottery and certain moneys
3 received by the state that are attributable to pari-mutuel on-track betting and
4 bingo (2nd consideration).

Analysis by the Legislative Reference Bureau

EXPLANATION OF PROPOSAL

This proposed constitutional amendment, to be given 2nd consideration by the 1999 legislature for submittal to the voters in April 1999, was first considered by the 1997 legislature in 1997 Assembly Joint Resolution 80, which became 1997 Enrolled Joint Resolution 19.

This proposed constitutional amendment amends section 24 (3), (5) and (6) (a) of article IV of the state constitution. Section 24 (3), (5) and (6) (a) of article IV contains the state constitution's limitation on the power of the legislature to authorize gambling. The proposed constitutional amendment provides that all moneys received by the state that are attributable to bingo games and pari-mutuel on-track betting (other than moneys used for the regulation of, and enforcement of law relating to, bingo games and pari-mutuel on-track betting) and the net proceeds of the state lottery must be used for property tax relief for residents of this state. The proposed constitutional amendment also provides that the distribution of these moneys may not vary based on the income or age of the person provided the property tax relief. Finally, the proposed constitutional amendment provides that the distribution of these moneys is not subject to the uniformity requirement of section 1 of article VIII of the state constitution.

PROCEDURE FOR 2ND CONSIDERATION

When a proposed constitutional amendment is before the current legislature on 2nd consideration, any change in the text approved by the preceding legislature causes the proposed constitutional amendment to revert to first consideration status so that 2nd consideration approval would have to be given by the next legislature before the proposal may be submitted to the people for ratification [see joint rule 57 (2)].

If the legislature approves a proposed constitutional amendment on 2nd consideration, it must also set the date for submitting the proposed constitutional amendment to the people for ratification and must determine the question or questions to appear on the ballot.

SUBMITTAL TO PEOPLE

Because of the time required for publication of election notices and distribution of election supplies, the elections board estimates that this joint resolution would have to be adopted by both houses no later than February 16, 1999, to be placed on the ballot for the April 6, 1999, spring election.

1 Whereas, the 1997 legislature in regular session considered a proposed
2 amendment to the constitution (1997 Assembly Joint Resolution 80, which became
3 1997 Enrolled Joint Resolution 19) and agreed to it by a majority of the members
4 elected to each of the 2 houses, which proposed amendment reads as follows:

SECTION 1. Section 24 (3) of article IV of the constitution is amended to read:

[Article IV] Section 24 (3) The legislature may authorize the following bingo games licensed by the state, but all profits shall accrue to the licensed organization and no salaries, fees or profits may be paid to any other organization or person: bingo games operated by religious, charitable, service, fraternal or veterans' organizations or those to which contributions are deductible for federal or state income tax purposes. All moneys received by the state that are attributable to bingo games shall be used for property tax relief for residents of this state as provided by law. The distribution of moneys that are attributable to bingo games may not vary based on the income or age of the person provided the property tax relief. The distribution of moneys that are attributable to bingo games shall not be subject to the uniformity requirement of section 1 of article VIII. In this subsection, the distribution of all moneys attributable to bingo games shall include any earnings on the moneys received by the state that are attributable to bingo games, but shall not include any moneys used for the regulation of, and enforcement of law relating to, bingo games.

SECTION 2. Section 24 (5) of article IV of the constitution is amended to read:

[Article IV] Section 24 (5) This section shall not prohibit pari-mutuel on-track betting as provided by law. The state may not own or operate any facility or enterprise for pari-mutuel betting, or lease any state-owned land to any other owner or operator for such purposes. All moneys received by the state that are attributable to pari-mutuel on-track betting shall be used for property tax relief for residents of this state as provided by law. The distribution of moneys that are attributable to pari-mutuel on-track betting may not vary based on the income or age of the person provided the property tax relief. The distribution of moneys that are attributable to pari-mutuel on-track betting shall not be subject to the uniformity requirement of section 1 of article VIII. In this subsection, the distribution of all moneys attributable to pari-mutuel on-track betting shall include any earnings on the moneys received by the state that are attributable to pari-mutuel on-track betting, but shall not include any moneys used for the regulation of, and enforcement of law relating to, pari-mutuel on-track betting.

SECTION 3. Section 24 (6) (a) of article IV of the constitution is amended to read:

[Article IV] Section 24 (6) (a) The legislature may authorize the creation of a lottery to be operated by the state as provided by law. The expenditure of public funds or of revenues derived from lottery operations to engage in promotional advertising of the Wisconsin state lottery is prohibited. Any advertising of the state lottery shall indicate the odds of a specific lottery ticket to be selected as the winning ticket for each prize amount offered. The net proceeds of the state lottery shall be deposited in the treasury of the state, to be used for property tax relief for residents of this state as provided by law. The distribution of the net proceeds of the state lottery may not vary based on the income or age of the person provided the property tax relief. The distribution of the net proceeds of the state lottery shall not be subject to the uniformity requirement of section 1 of article VIII. In this paragraph, the distribution of the net proceeds of the state lottery shall include any earnings on the net proceeds of the state lottery.

Now, therefore, be it resolved by the ~~senate~~^{assembly ✓}, the ~~assembly~~^{senate ✓} concurring,

That the foregoing proposed amendment to the constitution is agreed to by the 1999 legislature; and, be it further

Resolved, That the foregoing proposed amendment to the constitution be submitted to a vote of the people at the election to be held on the first Tuesday of April,

1

2

3

4

5

1 1999; and, be it further

2 **Resolved, That** the question concerning ratification of the foregoing proposed
3 amendment to the constitution be stated on the ballot as follows:

4 **QUESTION 1: "Distribution of gambling proceeds.** Shall section 24 (3), (5)
5 and (6) (a) of article IV of the constitution be amended to require that most moneys
6 received by the state that are attributable to bingo games and pari-mutuel on-track
7 betting and the net proceeds of the state lottery be used for property tax relief for
8 residents of this state as provided by law?"

9 (END) ✓

Insert
4-9

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1093/?ins

.....

4-90

QUESTION 1: "*Distribution of gambling proceeds.*" Shall section 24 (3), (5) and (6) (a) of article IV of the constitution be amended to require that the net proceeds received by the state from bingo games and [✓]pari-mutuel on-track betting and the net proceeds of the state lottery be used for property tax relief for residents of this state as provided by law, but subject to the condition that the distribution not vary based on the income or age of the person provided property tax relief?"

(end ins)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1093/§dn

RAC
JLG

Representative Lehman:

Per our phone conversation on December 2, 1998, in the question to be submitted to the voters I have substituted the phrase "net proceeds" for "most moneys", inserted the phrase "as provided by law" after "state" and deleted the clause "with the specific kinds of property subject to property tax relief to be determined by law,". Please note that I also substituted the word "from" for the phrase "that are attributable to". I believe that this is a more direct statement.

If you have any questions about the draft or if I can be of any further assistance, please call me.

Richard A. Champagne
Legislative Attorney
266-9930

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1093/1dn
RAC:jlg:km

December 7, 1998

Representative Lehman:

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Richard A. Champagne
Legislative Attorney
266-9930

**SUBMITTAL
FORM**

LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 12/7/98

To: Representative M. Lehman

Relating to LRB drafting number: LRB-1093

Topic

Distribution of gambling proceeds

Subject(s)

Constitutional Amendments

1. **JACKET** the draft for introduction _____
in the **Senate** ____ or the **Assembly** ____ (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached per our conversation.
A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____.

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Richard A. Champagne, Legislative Attorney
Telephone: (608) 266-9930

Per Rep. Lehman:

12/8/98

- ① Don't use phrase "net proceeds" twice
- ② Put state lobby first



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-1093/x 2
RAC&PJD:jlg&kmg:km

*Redraft notes
has been run*

Today

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[Article IV] Section 24 (3) The legislature may authorize the following bingo games licensed by the state, but all profits shall accrue to the licensed organization and no salaries, fees or profits may be paid to any other organization or person: bingo games operated by religious, charitable, service, fraternal or veterans' organizations or those to which contributions are deductible for federal or state income tax purposes. All moneys received by the state that are attributable to bingo games shall be used for property tax relief for residents of this state as provided by law. The distribution of moneys that are attributable to bingo games may not vary based on the income or age of the person provided the property tax relief. The distribution of moneys that are attributable to bingo games shall not be subject to the uniformity requirement of section 1 of article VIII. In this subsection, the distribution of all moneys attributable to bingo games shall include any earnings on the moneys received by the state that are attributable to bingo games, but shall not include any

moneys used for the regulation of, and enforcement of law relating to, bingo games.

SECTION 2. Section 24 (5) of article IV of the constitution is amended to read:

[Article IV] Section 24 (5) This section shall not prohibit pari-mutuel on-track betting as provided by law. The state may not own or operate any facility or enterprise for pari-mutuel betting, or lease any state-owned land to any other owner or operator for such purposes. All moneys received by the state that are attributable to pari-mutuel on-track betting shall be used for property tax relief for residents of this state as provided by law. The distribution of moneys that are attributable to pari-mutuel on-track betting may not vary based on the income or age of the person provided the property tax relief. The distribution of moneys that are attributable to pari-mutuel on-track betting shall not be subject to the uniformity requirement of section 1 of article VIII. In this subsection, the distribution of all moneys attributable to pari-mutuel on-track betting shall include any earnings on the moneys received by the state that are attributable to pari-mutuel on-track betting, but shall not include any moneys used for the regulation of, and enforcement of law relating to, pari-mutuel on-track betting.

SECTION 3. Section 24 (6) (a) of article IV of the constitution is amended to read:

[Article IV] Section 24 (6) (a) The legislature may authorize the creation of a lottery to be operated by the state as provided by law. The expenditure of public funds or of revenues derived from lottery operations to engage in promotional advertising of the Wisconsin state lottery is prohibited. Any advertising of the state lottery shall indicate the odds of a specific lottery ticket to be selected as the winning ticket for each prize amount offered. The net proceeds of the state lottery shall be deposited in the treasury of the state, to be used for property tax relief for residents of this state as provided by law. The distribution of the net proceeds of the state lottery may not vary based on the income or age of the person provided the property tax relief. The distribution of the net proceeds of the state lottery shall not be subject to the uniformity requirement of section 1 of article VIII. In this paragraph, the distribution of the net proceeds of the state lottery shall include any earnings on the net proceeds of the state lottery.

- 1 *Now, therefore, be it resolved by the assembly, the senate concurring,*
 2 *That* the foregoing proposed amendment to the constitution is agreed to by the 1999
 3 legislature; and, be it further
 4 *Resolved, That* the foregoing proposed amendment to the constitution be

1 submitted to a vote of the people at the election to be held on the first Tuesday of April,
2 1999; and, be it further

3 **Resolved, That** the question concerning ratification of the foregoing proposed
4 amendment to the constitution be stated on the ballot as follows:

5 **QUESTION 1: "Distribution of gambling proceeds.** Shall section 24 (3), (5)
6 and (6)(a) of article IV of the constitution be amended to require that the net proceeds
7 received by the state from bingo games and pari-mutuel on-track betting and the
8 net proceeds of the state lottery be used for property tax relief for residents of this
9 state as provided by law, but subject to the condition that the distribution not vary
10 based on the income or age of the person provided property tax relief?"

(END)

11

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1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1093/2ins
RAC&PJD:jlg&kmg:km

4-11

QUESTION 1: “*Distribution of gambling proceeds.* Shall section 24 (3), (5) and (6) (a) of article IV of the constitution be amended to require that the net proceeds of the state lottery and of moneys received by the state from bingo games and pari-mutuel on-track betting be used for property tax relief for residents of this state as provided by law, but subject to the condition that the distribution not vary based on the income or age of the person provided property tax relief?”

**SUBMITTAL
FORM**

LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 12/8/98

To: Representative M. Lehman

Relating to LRB drafting number: LRB-1093

Topic

Distribution of gambling proceeds

Subject(s)

Constitutional Amendments

1. **JACKET** the draft for introduction

By Michael Lehman

in the **Senate** ____ or the **Assembly** (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached _____.

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____.

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Richard A. Champagne, Legislative Attorney
Telephone: (608) 266-9930